

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DESERT PALACE, INC., d/b/a CAESARS  
PALACE,

Plaintiff,

vs.

DANIEL KHATCHATURIAN,

Defendants.

Case No. 2:12-cv-00247-KJD-GWF

**ORDER**

**Motion for Extension of Time - #15**

This matter is before the Court on Defendant's Unopposed Motion for Extension of Time to File Stipulated Discovery Plan and Scheduling Order (#15), filed on April 19, 2012. By this motion, Defendant requests that all discovery, including conducting a scheduling conference pursuant to Fed.R.Civ.Pro. 26(f) and submitting a proposed discovery plan and scheduling order, be stayed until the court decides Defendant's pending Motion to Dismiss (#6). Although Plaintiff does not oppose the motion to stay discovery, the court is responsible for ensuring that cases are timely and efficiently pursued and that unnecessary delay is avoided.

In deciding whether discovery should be stayed pending a decision on a potentially dispositive motion, the court must be convinced that plaintiff will be unable to state a claim for relief. *Turner Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 555–6 (D.Nev.1997); *Twin City Fire Ins. v. Employers Insurance of Wausau*, 124 F.R.D. 652, 653 (D.Nev.1989); and *Trzaska v. International Game Technology*, 2011 WL 1233298, \*\*2-3 (D.Nev. 2011). *Cal. Sportfishing Prot. Alliance v. Chico Scrap Metal, Inc.*, 2011 WL 130228, \*4 (E.D.Cal.2011), states that a merely colorable defense usually will not qualify to stay discovery. Generally, there must be no question in the court's mind that the dispositive motion will prevail, and therefore, discovery is a

1 waste of effort. Litigation should not be delayed simply because a non-frivolous motion has been  
2 filed. This view is consistent with *Turner Broadcasting* and *Twin City Fire Ins., supra*. Having  
3 reviewed Defendant's motion to dismiss, and the opposition and reply briefs, the court is not  
4 convinced that Defendant will prevail on the motion or that Plaintiff will be unable to amend the  
5 complaint to allege a potentially viable claim for relief. Accordingly,

6 **IT IS HEREBY ORDERED** that Defendant's Unopposed Motion for Extension of Time  
7 to File Stipulated Discovery Plan and Scheduling Order (#15) is **denied**. The parties are directed to  
8 conduct a Rule 26(f) conference and file a proposed discovery plan and scheduling order on or  
9 before **May 9, 2012**.

10 DATED this 25th day of April, 2012.

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13 GEORGE FOLEY, JR.  
14 United States Magistrate Judge  
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